

REMARKS

Reconsideration is respectfully requested in view of the amendments made to the claims and for the remarks made herein.

Claims 1-21 and 23 are pending and stand rejected.

Claim 18 has been amended.

Claims 1, 12, 18 and 21 are independent claims.

Claims 1-17 stand rejected under 35 USC §103(a) as being unpatentable over Miyachi (USPPA no. 2003/0043165) in view of Myers (US Pub. No. 2002/0041288 A1). Claims 18-20 stand rejected under 35 USC §103(a) as being unpatentable over Miyachi (USPPA no. 2003/0043165).

With regard to the rejection of claims 18-20 under 35 USC §103, independent claim 18 has been amended to recite “*at least a smart clipping algorithms that “adds white” to out-of-gamut digital data of the color image, adjusts said individual colors of said out-of-gamut digital data by linearly scaling said individual colors based on a smallest value of said digital data individual colors, wherein said adjusted smallest value is set to a known value within said gamut of the color image, and scaling said adjusted colors to a maximum value based on a maximum value of one of said adjusted colors...*” which is similar to the limitations recited in the other independent claims 1, 12 and 21, which are further addressed below.

With regard to the rejection of claims 1-17 under 35 USC §103, applicant respectfully disagrees with and explicitly traverses the rejection of the claims. The independent claims recite that the adjusting of the colors is performed by linearly scaling individual colors based a smallest out-of-gamut color so that the smallest out-of-gamut color is adjusted to a known value within the gamut of colors.

Miyachi discloses a system for adjusting the color of a display device by increasing a gradation level of a color signal having a highest gradation level while decreasing a gradation level of a color signal having the lowest gradation level when the gradation levels are not equal. Miyachi discloses in paragraph 0071 the adjustment of a color gradation level as a function of the other colors and that negative values are fixed to a zero value. Accordingly, Miyachi discloses a system wherein the colors are adjusted based on predetermined constant factors and the relationships among the colors.

As further indicated by the Office Action, Miyachi fails to disclose a system wherein the color values are linearly adjusted such that the smallest value is set to a known value within the gamut of colors as is recited in the claims, as is recited in the claims.

In addition, applicants submit that Miyachi also fails to provide any teaching regarding *scaling the adjusted values based on a maximum adjusted value*, as recited in the claims. Applicants respectfully request that the Examiner specifically address this limitation.

Myers discloses a system for matching color displayed by source and destination display devices and particularly for providing color matching between a computer monitor and an ink printer.

The Office Action refers to Myers for teaching “adjusting said individual colors of said out-of-gamut digital data by linearly scaling said individual colors based on a smallest value of said digital data individual colors, wherein said adjusted smallest value is set to a known value within said gamut of the color image”. However a review of the cited sections ([0029], [0036]) reveals that Myers discloses using *ratio values of the source and destination display devices*, which are scaled and then linearly interpolated over a range, and not “out-of gamut digital data” as claimed. Importantly, the present invention allows for the colors of the input signal that can be represented on the display to be un-affected, but as a result of this correction, colors that cannot be represented are mapped to a color inside the gamut.” See page 2, lines 1-13. Instead Myers teaches a color ratio that will cause the destination device to display a color that essentially matches each of fully saturated single and dual colors of a source display device. See Abstract.

Moreover, Myers that teaches setting the white level to the minimum of the RGB color values. See [0036]. The minimum of the RGB color values is clearly not out-of-gamut digital data but an RGB monitor value. Thus, the Myers does not teach adjusts

said individual colors of said out-of-gamut digital data, but adjusts the in-gamut digital data of the color ratios of the devices.

Moreover, applicants can find nothing in Myers that teaches *scaling the adjusted values based on a maximum adjusted value*, as recited in the claims. Applicants respectfully request that the Examiner specifically address this limitation.

Hence, Myers fails to disclose adjusting said individual colors of said out-of-gamut digital data by linearly scaling said individual colors based on a smallest value of said digital data individual colors, wherein said adjusted smallest value is set to a known value within said gamut of the color image, as is recited in the claims. In addition, Myers fails to disclose the scaling of the colors to a maximum value based on the color with the maximum value.

A claimed invention is prima facie obvious when three basic criteria are met. First, there must be some suggestion or motivation, either in the reference themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the teachings therein. Second, there must be a reasonable expectation of success. And, third, the prior art reference or combined references must teach or suggest all the claim limitations.

The Court in KSR v. Teleflex (citation omitted), however, has held that the teaching, suggestion and motivation test (TSM) is merely to be used as a helpful hint in

determining obviousness and a bright light application of such a test is adverse to those factors for determining obviousness enumerated in the Graham v. John Deere (citation omitted).

In this case, the combination of Miyachi and Myers fails to disclose at least one material element recited in the independent claims and thus, cannot be said to render obvious the subject matter recited in the independent claims.

With regard to the remaining claims, these claims depend from the independent claims 1, 12, 18 and 21 and are thus also allowable by virtue of their dependency upon an allowable base claim.

For the amendments made to the claims and for the remarks made, herein, applicant submits that the reason for the rejection of the claims has been overcome and respectfully requests that the rejection be withdrawn and a Notice of Allowance be issued.

Applicant denies any statement, position or averment stated in the Office Action that is not specifically addressed by the foregoing. Any rejection and/or points of argument not addressed are moot in view of the presented arguments and no arguments are waived and none of the statements and/or assertions made in the Office Action is conceded.

Applicant makes no statement regarding the patentability of the subject matter recited in the claims prior to this Amendment and has amended claim 18 solely to facilitate expeditious prosecution of this patent application. Applicant respectfully reserves the right to pursue claims, including the subject matter encompassed by the originally filed claims, as presented prior to this Amendment, and any additional claims in one or more continuing applications during the pendency of the instant application.

For all the foregoing reasons, it is respectfully submitted that all the present claims are patentable in view of the cited references. A Notice of Allowance is respectfully requested.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read 'Thomas J. Onka', written over a horizontal line.

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